



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 07 2007

Mr. Victor Gallo  
Senior Advisor & Counsel, Environmental & Regulatory Affairs  
Lower Manhattan Development Corporation  
One Liberty Plaza, 20<sup>th</sup> Floor  
New York, NY 10006

Dear Mr. Gallo:

In accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) (CEQ # 20070015) for the East River Waterfront Esplanade and Piers located in New York City, New York. The Lower Manhattan Development Corporation (LMDC), with funding from the Department of Housing and Urban Development (HUD), is proposing to improve public access to the waterfront, enhance pedestrian connectivity, and create waterfront amenities for public use and enjoyment along the esplanade between the Battery Maritime Building and Pier 42 on the lower east side of Manhattan. The proposed action would include a Program Zone under the FDR Drive for pavilions and temporary outdoor activities; a Recreation Zone along the edge of the water with seating, play spaces, and plantings, a uniform bikeway/walkway along South Street; and improvements to Piers 15, 35, 36, and 42, as well as the New Market Building and pier.

EPA applauds LMDC's assurances that it will include the Environmental Performance Commitments utilized on the Lower Manhattan recovery projects, including the use of ultra low sulfur diesel for all non-road construction engines, and the application of tailpipe emissions reduction technologies. While LMDC states this would not apply to any tugboats used on the project, we suggest that LMDC investigate using marine operators that may have already upgraded their equipment with the new low emission engines.

We are concerned, however, with the traffic and air quality analysis. While we concur with LMDC's choice of considering new developments located east of Pearl Street and Madison Street as part of the future no build traffic levels, the analysis does not specifically indicate which new developments were included. Please clarify whether the new developments listed on Page 3-13 were included, and if so, identify individual project traffic levels assumed in the modeling. For example, we recommend that the Final EIS identify the assumed traffic levels for Pier 36, and explain why were those assumptions were used. In addition, a General Conformity Determination was not included in the DEIS. HUD must demonstrate that the direct and indirect emissions of this federal action will conform to the state implementation plan.

Finally, during the comment period for the DEIS, General Growth Properties announced that it is planning to rebuild the entire Pier 17 complex completely changing its physical structure and usage (See Newsday, February 27, 2007). This project and how it might impact the East River Waterfront Esplanade project should be discussed in the Final EIS.

EPA has rated the DEIS as Environmental Concerns – Insufficient Information (“EC-2”) (see enclosed rating sheet) due to the lack of information in the traffic and subsequent air quality analysis. If you have any questions regarding this review or our comments, please contact Lingard Knutson at 212-637-3747.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John Filippelli", is written over a horizontal line.

John Filippelli, Chief  
Strategic Planning Multi Media Programs Branch

Enclosures

**Additional EPA Region 2 Comments on the East River Waterfront Esplanade and Piers  
Oct. 2006 DEIS**

1. There has been no testing or analysis of the possible sediment contamination at either the expected dredging location near Pier 15, nor at any of the sites where pier construction/rehabilitation is to be performed. While the document does include some sediment data gathered several years ago, the data is not specific to this project, and in the case of data from 1993, outdated.
2. The Essential Fish Habitat and Endangered Species consultation letters with the NOAA Fisheries Service should be included in the DEIS.
3. EPA suggests that the applicant use native trees and plants for landscaping the new esplanade. The Federal Highways Administration has an excellent list of plants for roadside use on its website at <http://www.fhwa.dot.gov/environment/rdsduse/ny.htm>.
4. Page 9-27 - "chimney swifts (*Chaetura pelagica*)" is used twice in a list of passerine bird species.
5. Page 9-29 - define IEC, and include it in the glossary.
6. Page 9-30 - Third bullet. Diameter is misspelled.
7. Page 9-34 - Include a description and estimated volume of the material to be dredged for the relocation of the Wavertree.
8. Page 16-13 - In the discussion of the mixed-use development at the site of the NYU Downtown Hospital on Beekman Street, the DEIS states that construction is expected to begin in 2006. Discuss whether construction has started, or when it is expected to start.



## SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

### Environmental Impact of the Action

#### LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

#### EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

### Adequacy of the Impact Statement

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#### Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."